

OGC Has Reviewed

Dual Comp

2 July 1947

MEMORANDUM FOR LEGISLATIVE LIAISON OFFICER

Subject: Explanatory Notes on Statutes Cited for
Proposed Legislation - Draft of 9 June 1947

The proposed bill is considered by sections and notes made on statutes cited therein.

SECTION 2(b)(2):

1. 10 U.S.C. 576 provides that any Army officer who accepts a civil office shall cease to be an officer of the Army, and his commission vacated. This statute is explicit, and specific exception should be made in the proposed legislation. Note that there is no such blanket prohibition on Navy officers, and consequently no statute is cited for them.

2. The Foreign Service Act of 1946 permits assignment of Foreign Service officers to other agencies, but makes special provision for assignment to the Department of State, which to our mind makes unclear the individual's status when assigned to another agency; consequently, specific exception was again made to prevent confusion.

SECTION 2(b)(3):

This section is intended to permit employment of any retired officer of the named services. For this purpose it is necessary to make exception to the provisions of:

1. 5 U.S.C. 58, which prohibits more than one salary from appropriated funds when the combined amount exceeds \$2000;

2. 5 U.S.C. 59 which qualifies 58 by certain exceptions;

3. 5 U.S.C. 59(a) which prohibits retired officers from receiving retired pay if the combined civilian and retired pay exceeds \$3000 per annum except as to officers retired for combat disability or disabilities resulting from explosion of instrumentality of war

in line of duty;

4. 5 U.S.C. 62, which prohibits appointment to a civilian office of a retired officer receiving retired pay of \$2500, unless such officer were retired for combat casualties or for incapacity in the line of duty.

SECTION 4(1):

Section 3709 Revised statutes, 41 U.S.C. 5, requires advertising for proposed procurement in amounts over \$100 except in the case of public exigencies or when only one source is available, or in certain cases of personal service contracts. Most procurement for CIA would comply with Section 3709, but it will be essential to have exceptions to protect the security and ready availability of certain operational equipment.

SECTION 4(3):

Such persons as may be assigned for permanent duty overseas will serve under conditions comparable to those of the Foreign Service. It was, therefore, felt appropriate to extend to such personnel provisions of the Foreign Service Act of 1946 which might be applicable:

1. Section 901 of that Act provides for special allowances set by the Secretary of State to provide for extraordinary circumstances created by local conditions such as shortage of facilities, unusually high cost of living, extraordinary and necessary expenses, and unhealthful or excessively adverse living conditions;

2. Section 911 permits the Secretary of State to set regulations for payment of travel expenses of officers and employees and their families, and incidental expenses for periods of home leave;

3. Section 912 permits the loan of household equipment to officers and employees to eliminate transportation costs;

4. Section 913 permits transportation for or on behalf of an officer or employee of a privately-owned automobile for part or all of the distance on a permanent transfer;

5. Section 931 provides for annual leave

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under such regulations as the Secretary of State may provide;

6. section 932 provides for sick leave;

7. section 933 requires the Secretary to order to the continental U.S. on statutory leave of absence any officer and employee upon completion of two years' service abroad, or as soon as possible thereafter;

8. section 935 provides for the transfer of leave of absence on appointment to the Foreign Service or another agency up the maximum permitted by the agency to which appointed.

9. section 941 permits the Secretary to pay for costs of line of duty illness or injury requiring hospitalization in a suitable hospital or clinic.

10. section 942 permits payment of transportation to a suitable hospital or clinic of employees injured or ill in the line of duty where no facilities are available at their post of duty, and for travel of an attendant if necessary. It also provides for a first-aid station and a nurse at the post if the Secretary deems sufficient personnel is employed to warrant such a station;

11. section 943 provides for physical examinations and costs of inoculations for employees who are citizens of the United States.

SECTION 4(5):

section 3551 Revised Statutes 31 U.S.C. 5437 prohibits exchange of funds by any disbursing officer or agent of the Government other than exchange for gold, silver, U.S. Notes and National Bank Notes, and provides further for restrictions on such permitted exchanges. It requires the head of the agency to suspend the agent who violates the provisions of this section, and report to the President for removal or reinstatement. It is essential to the operations of the Central Intelligence Agency to have an exemption from the specific terms of this statute.

SECTION 4(7):

The Act of August 24, 1912 /37 Stat. 553, 5 U.S.C. 652/ prohibits removal of classified civil service employees except for such cause as will promote the efficiency of the Service, and for reasons given in writing, with notice to the person affected of the charges preferred. Such a prohibition is not consistent with the peculiar security requirements of an intelligence agency. The further phrase " * * * or the provisions of any other law * * * " is included to eliminate other restrictions such as special status given to veterans and general administrative limitations on the discharge of employees.

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